



JAMES D. WELCH
ATTORNEY AT LAW
PROFESSIONAL ENGINEER

INTELLECTUAL PROPERTY
402-391-4446

10328 PINEHURST AVE.
OMAHA, NEBRASKA 68124

November 16, 2005

Commissioner for Patents
Box: 1450
Alexandria, VA 22313-1450

RE: APPLICATION OF JOHS ET AL., TITLED "ELLIPSOMETER OR POLARIMETER AND THE LIKE SYSTEMS WITH BEAM CHROMATIC SHIFTING AND DIRECTING MEANS";
SERIAL NO.: 10/613,051;
FILE DDATE: 07/07/2003;
ART UNIT: 2877;
EXAMINER: PHAM H.

RESPONSE TO REQUIREMENT OF RESTRICTION

Dear Sir;

I am in receipt of a Restriction Requirement dated 11/03/05.

The Examiner has identified four Groups of Claims:

- I. Claim 1;
- II. Claim 2;
- III. Claims 3, 4, 21; and
- IV. Claims 5-19, 20, 22 and 23;

and required an election.

Applicant provisionally elects to pursue the Group III Claims 3, 4 and 21 as Amended herein, with Traverse. The Examiner's attention is directed to the language in Original Claim 3, on Page 72 starting 7 lines from the bottom of the page), which states:

such that in operation the Source of electromagnetic radiation (ZQTH) provides spectroscopic electromagnetic radiation to one end of said optical fiber (ZOF)

and on Page 73, beginning in Line 9:

said electromagnetic radiation reflected from said beam chromatic shifting and directing means (ZCM) being then caused to pass through focusing lens (ZFL) and enter spectrometer (ZSPEC) which comprises a multi-element detector system;

The point being that Claims 3, 4 and 21 are directed to a

Spectroscopic Ellipsometer just as are the Group IV Claims. That is, it is believed that Claims 3, 4, 21, 5-19, 20, 22 and 23 are all properly Classified in the same Class 356 and Subclass 369.

Following herein is a listing of all Claims, with Claims 1 and 2 indicated as abandoned, in this Application, and with New Claims 24 and 25 added. It is believed that no Fees are due in view of the Cancelation of Claims 1 and 2.

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS TRANSMITTAL IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE WITH SUFFICIENT POSTAGE FOR FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE COMMISSIONER FOR PATENTS, BOX: 1450, ALEXANDRIA VA. 22313-1450 ON THE DATE INDICATED BELOW.

JAMES D. WELCH

DATE